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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of: Alfred Niederberger                          Confirmation No.: Not Yet Assigned  
Eric Hattler  
Serial No.: Not Yet Assigned 10/721,895                  Art Unit: Not Yet Assigned  
Filed: November 26, 2003                          Examiner: Not Yet Assigned  
For: Bone Plate                          Attorney Docket No.: 8932-803-999

## INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In accordance with the duty of disclosure provisions of 37 C.F.R. §1.56, there is hereby provided certain information which the Examiner may consider material to the examination of the subject U.S. patent application. It is requested that the Examiner make this information of record if it is deemed material to the examination of the application.

1. Enclosures accompanying this Information Disclosure Statement are:
  - 1a.  A list of all patents, publications, applications, or other information submitted for consideration by the office.
  - 1b. A legible copy of:
    - Each foreign patent or printed publication;
    - Each publication or that portion which caused it to be listed on the PTO-1449;
    - For each cited pending U.S. application, the application specification including the claims, and any drawing of the application, or portion of the application which caused it to be listed on the PTO-1449 including any claims directed to that portion;
    - all other information or portion which caused it to be listed on the PTO-1449.
  - 1c.  An English language copy of search report(s) from a counterpart foreign application or PCT International Search Report.
  - 1d.  Explanations of relevancy (ATTACHMENT 1(d), hereto) or English language abstracts of the non-English language publications.
2.  This Information Disclosure Statement is filed under 37 C.F.R. §1.97(b):
  - Within three months of the filing date of a national application other than a continued prosecution application under §1.53(d);
  - Within three months of the date of entry of the national stage as set forth in §1.491 in an international application;

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- Before the mailing of the first Office action on the merits;
  - Before the mailing of a first Office action after the filing of a request for continued examination under §1.114.
3.  This Information Disclosure Statement is filed under 37 C.F.R. §1.97(c) after the period specified in 37 C.F.R §1.97(b), but before the mailing date of any of a final action under 37 C.F.R. §1.113, a notice of allowance under 37 C.F.R. §1.311 or an action that otherwise closes prosecution in the application.
- (Check either Item 3a or 3b)*
- 3a.  The Certification Statement in Item 5 below is applicable. Accordingly, no fee is required.
- 3b.  The \$180.00 fee set forth in 37 C.F.R. §1.17(p) in accordance with 37 C.F.R. §1.97(c) is:  
 enclosed  
 to be charged to Jones Day Deposit Account No. 16-1150.
- (Item 3b to be checked if any reference known for more than 3 months)*
4.  This Information Disclosure Statement is filed under 37 C.F.R. §1.97(d) after the period specified in 37 C.F.R. §1.97(c), but on or before the date of payment of the issue fee.
- The Certification Statement in Item 5 below is applicable.
- The \$180.00 fee set forth in 37 C.F.R. §1.17(p) is:  
 enclosed.  
 to be charged to Jones Day Deposit Account No. 16-1150.
5.  Certification Statement (applicable if Item 3a or Item 4 is checked)
- (Check either Item 5a or 5b)*
- 5a.  In accordance with 37 C.F.R. §1.97(e)(1), it is certified that each item of information contained in this Information Disclosure Statement was first cited in a communication from a foreign patent office in a counterpart foreign application not more than three months prior to the filing of this Information Disclosure Statement.
- 5b.  Each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.
- 5c.  Pursuant to 37 C.F.R. §1.704(d), each item of information contained in this information disclosure statement was cited in a communication from a foreign patent office in a counterpart application, and the communication was not **received** by any individual designated in 37 C.F.R. §1.56(c) more than thirty days prior to the filing of this information disclosure statement.
6.  This application is a continuation application under 37 C.F.R. §1.60 or §1.53(b) or (d).

*(Check appropriate Items 6a, 6b and/or 6c)*

- 6a.  A Petition to Withdraw from issue under 37 C.F.R. §1.313(b)(5) is concurrently filed herewith.
- 6b.  Copies of publications listed on Form PTO-1449 from prior application Serial No. , filed on , of which this application claims priority under 35 U.S.C. §120, are not being submitted pursuant to 37 C.F.R. §1.98(d).
- 6c.  Copies of the publications listed on Form PTO-1449 were not previously cited in prior application Serial No. , filed on , and are provided herewith.
7.  This is a Supplemental Information Disclosure Statement. (Check Item 7a)
- 7a.  This Supplemental Information Disclosure Statement under 37 C.F.R. §1.97(f) supplements the Information Disclosure Statement filed on . A bona fide attempt was made to comply with 37 C.F.R. §1.98, but inadvertent omissions were made. These omissions have been corrected herein. Accordingly, additional time is requested so that this Supplemental Information Disclosure Statement can be considered as if properly filed on .
8.  In accordance with 37 C.F.R. §1.98, a concise explanation of what is presently understood to be the relevance of each non-English language publication is:

*(Check Item 8a, 8b, or 8c)*

- 8a.  satisfied because all non-English language publications were cited on the enclosed English language copy of the PCT International Search Report or the search report from a counterpart foreign application indicating the degree of relevance found by the foreign office.
- 8b.  set forth in the application.
- 8c.  enclosed as an attachment hereto.
9.  The Commissioner is authorized to charge any additional fee required or credit any overpayment for this Information Disclosure Statement and/or Petition to Jones Day Deposit Account No. 16-1150.
10.  No admission is made that the information cited in this Statement is, or is considered to be, material to patentability nor a representation that a search has been made (other than a search report of a foreign counterpart application or PCT International Search Report if submitted herewith). 37 C.F.R. §§1.97(g) and (h).

Respectfully submitted,  
*Thomas P. Scully* Reg. No. 45,086  
*for Brian M. Rothery*

Date: February 26, 2004

35,340

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LIST OF REFERENCES CITED BY APPLICANT (Use several sheets if necessary)	ATTY DOCKET NO.	APPLICATION NO
	8932-803-999	To be assigned
	APPLICANT Alfred Niederberger et al.	
	FILING DATE November 26, 2003	GROUP To be assigned

### U.S. PATENT DOCUMENTS

*EXAMINER INITIAL	DOCUMENT NUMBER	DATE	NAME	CLASS	SUBCLASS	FILING DATE IF APPROPRIATE
A01	6,228,085	05/2001	Theken et al.	606	61	
A02	6,183,475	02/2001	Lester et al.	606	69	
A03	6,129,730	10/2000	Bono et al.	606	73	
A04	6,096,040	8/2000	Esser	606	69	
A05	6,022,352	02/2000	Vandewalle	606	73	
A06	5,968,047	10/1999	Reed	606	76	
A07	5,938,664	8/1999	Winquist et al.	606	69	
A08	5,863,201	1/1999	Lazzara et al.	623	16	
A09	5,810,823	9/1998	Klaue et al.	606	69	
A10	5,772,662	6/1998	Chapman et al.	606	69	
A11	5,749,872	5/1998	Kyle et al.	606	69	
A12	5,741,258	4/1998	Klaue et al.	606	70	
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A14	5,702,399	12/1997	Kilpela et al.	606	72	
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	A39	4,927,421	5/1990	Goble et al.	606	73	
	A40	4,838,252	6/1989	Klau	129	92 YP	
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	A54						
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### FOREIGN PATENT DOCUMENTS

		DOCUMENT NUMBER	DATE	COUNTRY	CLASS	SUBCLASS	TRANSLATION	YES	NO
	B01	WO 01/19267	3/2001	PCT					
	B02	WO 00/53110	9/2000	PCT				ABS	
	B03	WO 00/53111	9/2000	PCT				ABS	
	B04	WO 97/09000	3/1997	PCT				ABS	
	B05	DE 44 38 264 A1	3/1996	Germany	A61B	17/70	ABS		
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	B10	2496429	5/1979	France				ABS	
	B11	2405706	5/1979	France				ABS	
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	B13	2405062	5/1979	France				ABS	
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	B15	2233973	1/1975	France				ABS	
	B16								
	B17								
	B18								
	B19								

**OTHER REFERENCES (Including Author, Title, Date, Pertinent Pages, Etc.)**

	C01	
	C02	
	C03	

EXAMINER	DATE CONSIDERED

\*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.